

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
DALE E. OLSON,

Appellant,

vs.

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCHB No. 603

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

THIS MATTER being an appeal of Dale E. Olson to a notice of civil penalty of \$250.00 for an alleged violation of respondent's Regulation I; having come on regularly for hearing before the Pollution Control Hearings Board on the 23rd day of August, 1974, at Seattle, Washington; and appellant, Dale E. Olson, appearing pro se and respondent, Puget Sound Air Pollution Control Agency, appearing through its attorney, Keith D. McGoffin; and Board member present at the hearing being W. A. Gissberg and the Board having reviewed the transcript, exhibits, records and files herein and having entered on the 1st day of

1 October, 1974, its proposed Findings of Fact, Conclusions of Law and  
2 Order, and the Board having served said proposed Findings, Conclusions  
3 and Order upon all parties herein by certified mail, return receipt  
4 requested and twenty days having elapsed from said service; and

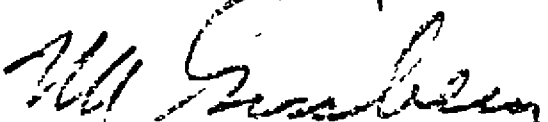
5 The Board having received no exceptions to said proposed Findings,  
6 Conclusions and Order; and the Board being fully advised in the premises;  
7 now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
9 Findings of Fact, Conclusions of Law and Order, dated the 1st day of  
10 October, 1974, and incorporated by this reference herein and attached  
11 hereto as Exhibit A, are adopted and hereby entered as the Board's  
12 Final Findings of Fact, Conclusions of Law and Order herein.

13 DONE at Lacey, Washington, this 6<sup>th</sup> day of November, 1974.

14 POLLUTION CONTROL HEARINGS BOARD

15   
16 WALT WOODWARD, Chairman

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18 W. A. GISSBERG, Member

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20 CHRIS SMITH, Member

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26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
DALE E. OLSON,

Appellant,

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PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCHB No. 603

FINDINGS OF FACT,  
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A formal hearing on the appeal of Dale E. Olson to a notice of civil penalty of \$250.00 for an alleged violation of respondent's Regulation I came on before Board member W. A. Gissberg (presiding) on August 23, 1974 in Seattle, Washington.

Appellant appeared pro se; respondent appeared by and through its attorney, Keith D. McGoffin.

Having reviewed the transcript and examined the exhibits, the Pollution Control Hearings Board makes these

EXHIBIT A

FINDINGS OF FACT

I.

Respondent, pursuant to Section 5, chapter 69, Laws of 1974, 3rd Ex. Sess., has filed with this Board a certified copy of its Regulation I containing respondent's regulations and amendments thereto.

II.

On April 26, 1974 an unlawful outdoor fire, prohibited by respondent's Regulation I, consisting of metal-rimmed rubber tires and other debris, was burned at "approximately 83rd Street Northeast and 163rd Avenue Northeast, Granite Falls, Washington." The fire occurred on property which was owned, prior to their death, by the parents of appellant, Dale E. Olson. Appellant's mother predeceased her husband, and the latter, prior to his death in October, 1973, conveyed the property on which the fire occurred to the brother of appellant.

III.

Notwithstanding the fact that appellant did not own the property on which the unlawful fire occurred, he did use a shed thereon for storage of his cedar shake blocks and, on behalf of his brother, sister and himself, from time to time sold scrap metal from items of personal property which had accumulated upon the property.

IV.

A neighbor, one Mrs. Miller, had observed some men on the "Olson" property, doing wrecking work for one or two days prior to the April 26 fire. At about 12:30 p.m. on April 26, 1974, she observed appellant at the site of the subsequent fire. About one hour after appellant left the scene, she observed another unknown and unidentified man drop a

FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

1 truck tire into the hole which had once been a basement (the house which  
2 had been thereon had been burned sometime before) and shortly thereafter  
3 she observed the fire and black smoke.

4 V.

5 Appellant testified: that he does not know who the man was who  
6 apparently ignited the fire, but that such one had unsuccessfully  
7 approached him and asked to purchase junk on the property; that appellant  
8 did not own the property, but that his brother did; that persons unknown to  
9 him and without his consent, after the fire occurred, removed the metal  
10 tire rims from the fire site.

11 VI.

12 Any Conclusion of Law hereinafter recited which should be deemed a  
13 Finding of Fact is hereby adopted as such.

14 From these Findings, the Pollution Control Hearings Board comes  
15 to these

16 CONCLUSIONS OF LAW

17 I.

18 There was, on April 26, 1974 an unlawful fire on property, the  
19 ownership of which was not proven by respondent and of which appellant  
20 disclaims ownership. Respondent did not prove that appellant either  
21 owned or controlled the property and hence failed to prove a prima facie  
22 case to support its imposition of a civil penalty against appellant.

23 II.

24 While the circumstances are suspicious as to appellant, we cannot  
25 uphold civil penalties on that basis, nor is the evidence sufficient for  
26 us to properly make the required inferences of facts which the proof

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 does not disclose.

2 III.

3 Any Finding of Fact which should be deemed a Conclusion of Law is  
4 hereby adopted as such.

5 Accordingly, it is the Board's

6 ORDER

7 The imposition of the civil penalty against appellant is stricken.  
8 DONE at Lacey, Washington this 1st day of October, 1974.

9 POLLUTION CONTROL HEARINGS BOARD

10 Walt Woodward  
11 WALT WOODWARD, Chairman

12 W. A. Gissberg  
13 W. A. GISSBERG, Member

14 Chris Smith  
15 CHRIS SMITH, Member

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27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER